

EXHIBIT 1

PROPOSED ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND)
COMPOUNDING PHARMACY, INC.) MDL No. 2419
PRODUCTS LIABILITY LITIGATION) Dkt. No. 1:13-md-2419-RWZ

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This Document Relates to:)
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Suits Naming the SSC Defendants)
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)

[PROPOSED]
ORDER GRANTING THE SSC DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT REGARDING
THE PLAINTIFFS' CLAIMS FOR STRICT PRODUCT LIABILITY [DOC. 2882]

1. On February 29, 2016, the Court issued an opinion and order, Doc. 2700, in the STOPNC cases¹ dismissing the Plaintiffs' claims for strict product liability under Tennessee's Product Liability Act ("TPLA"), Tenn. Code Ann. § 29-28-101, *et seq.* The Court granted the STOPNC Defendants² motion for summary judgment on the Plaintiffs' claims for strict product liability, ruling that the Plaintiffs' claims in the STOPNC cases are governed by the Tennessee Health Care Liability Act, Tenn. Code Ann. § 29-26-101, *et seq.*, rendering the TPLA inapplicable.

2. The claims against the SSC Defendants³ arise from the same outbreak. The SSC Plaintiffs proceed under the same theories of liability against the SSC Defendants as were pursued against the STOPNC Defendants.

¹ Suits naming Saint Thomas Outpatient Neurosurgical Center, LLC.

² Saint Thomas Outpatient Neurosurgical Center, LLC, Howell Allen Clinic, a Professional Corporation, John Culclasure, MD, Debra Schamberg, RN, and Vaughan Allen, MD.

³ Specialty Surgery Center, PLLC; Kenneth Lister, MD; and Kenneth Lister, MD, PC.

3. On May 19, 2016, the SSC Defendants filed a motion for summary judgment at Doc. 2882 seeking dismissal of the Plaintiffs' TPLA claims in the SSC cases for the same reasons the Court dismissed the same claims against the STOPNC Defendants.

4. No opposition to the motion was filed by the deadline for responding. No extension of the opposition deadline was sought. Thus, the motion for summary judgment is unopposed.

5. The SSC Defendants' motion for summary judgment at Doc. 2882 is hereby granted for the reasons set forth in the Court's opinion and order at Doc. 2700. The Court's reasoning at Doc. 2700 is adopted and incorporated as if stated fully herein.

6. The Plaintiffs' claims for strict product liability under the TPLA are hereby dismissed with prejudice. The TPLA is inapplicable to the cases against the SSC Defendants.

It is so ORDERED.

Hon. Rya W. Zobel
United States District Judge

Dated: _____